

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 3:18-CR-114 HTW-FKB

DEVON MODACURE

ORDER

The Government filed its Motion in Limine [21] and the Court having reviewed said motion, conducted a hearing on August 29, 2018. The Government in its Omnibus Motion in Limine submitted thirteen (13) motions for the Court's consideration. The Court rules as follows:

1. Any suggestion or accusation that a prosecutor or agent engaged in misconduct

This Court, having heard arguments by both parties, grants this motion by the Government.

2. The presence or absence of any particular person on the government's witness list, or the government's plan to call or not call a particular witness

This Court, having heard arguments by both sides, grants this motion by the Government.

3. Criminal records of any witnesses

This Court, having heard arguments by both sides, will hold this issue in abeyance. The Court believes that facts developed during trial will better assist in ruling on this motion. Further, should the Defendant, after due diligence, find that it cannot obtain the necessary documents related to the criminal histories of their potential witnesses, they should make the Court aware of this issue as soon as possible.

4. Any out-of-court statements made by the Defendant or any other person if offered to prove the truth of the matter asserted

This Court, having heard argument from both sides, grants this motion by the Government. It is well settled that when a defendant offers his own out-of-court statement to prove the truth of the matter asserted, the statement is inadmissible hearsay. Hence, the Defendant is precluded from introducing self-serving hearsay statements through any witness.

5. Disputes over discovery, including the timing of the production of records to the government by witnesses

This Court, having heard arguments by both parties, grants this motion by the Government.

6. Which other persons have, or have not, been charged in this or other cases

This Court, having heard arguments by both parties, will hold this motion in abeyance. The Court believes that facts developed during trial will better assist in ruling on this motion.

7. Any argument that encourages jurors to ignore the law, not follow this Court's instructions, or otherwise violate their oaths as jurors

This Court, having heard arguments by both parties, will hold this motion in abeyance. The Government should provide the Court as well as the Defendant with a list of items that it believes the Defendant may attempt to present to the jury that it believes touches on the issues brought before the Court. The Court will issue a ruling on this motion after having reviewed the items submitted by the Government.

8. Plea negotiations, plea offers, or the rejection of a plea offer

The Government and the Defendant were in agreement as to this motion. As such, this motion will be granted.

9. Potential punishment or any other consequences that might result from a conviction

The Government and the Defendant were in agreement as to this motion. As such, this motion will be granted.

10. Defense counsel's personal opinions of, or relationship with, the Defendant

This Court, having heard arguments by both parties, will hold this motion in abeyance.

11. The use of interview reports prepared by law enforcement to impeach government witnesses

This Court, having heard arguments by both parties, will hold this motion in abeyance.

12. Specific instances of prior good acts

This Court, having heard arguments by both parties, will hold this motion in abeyance.

13. The existence or content of the government's motions and any order of this Court in response to those motions

This Court, having heard arguments by both parties, will hold this motion in abeyance. However, it should be noted that any such dispute as to this issue must be related to the facts of this case.

The Court, having carefully considered each of the motions presented before it rules as stated above and in accordance with its rulings as stated on the record during the August 29, 2018

motion hearing on these issues.

SO ORDERED AND ADJUDGED this the 4th day of September, 2018.

/s/HENTRY T. WINGATE
UNITED STATES DISTRICT JUDGE